F. Checklist Item 6: Unbundled Local Switching

The BOC applicants also satisfy Checklist Item 6, which requires that a BOC provide unbundled local switching. See 47 U.S.C. § 271(c)(2)(B)(vi). They provide CLECs unbundled switching capability in a nondiscriminatory manner. See, e.g., Deere IL Aff. ¶¶ 137-143.[165] The ICC found that "SBC Illinois' commercial performance results with respect to unbundled local switching demonstrate that it is providing CLECs nondiscriminatory access to ULS, and no party has contested SBC Illinois' performance." ICC Final Order ¶ 2000.[166]

Available Facilities and Functions. The BOC applicants provide requesting carriers access to line-side and trunk-side switching facilities, plus the features, functions, and capabilities of the switch. See Deere IL Aff. ¶¶ 137-139; see also Second Louisiana Order ¶¶ 207-209; Texas Order ¶¶ 336-338. The applicant telephone companies offer, among other things, the connection between a loop termination and a switch line card, see Deere IL Aff. ¶ 137; the connection between a trunk termination and the trunk card, see id. ¶ 138; all vertical features the switch port is capable of providing, see id. ¶ 139; and any technically feasible customized routing, blocking/screening, and recording functions, see id.

The BOC applicants also provide CLECs access to all call-origination and call-completion capabilities of the switch, including capabilities for intraLATA and interLATA calls. See id. ¶ 141. Unbundled tandem switching is also available, as is packet switching (where

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[165] See also Deere IN Aff. ¶¶ 137-143; Deere OH Aff. ¶¶ 137-143; Deere WI Aff. ¶¶ 137-143.

[166] See also PUCO Final Report and Evaluation at 189 ("Based on the record in this proceeding, the PUCO recommends that the FCC find that SBC Ohio has satisfied Checklist Item 6 by offering local switching unbundled from transport, local loop transmission, or other services."); PSCW Phase I Final Order at 197 (finding Wisconsin Bell in compliance with Checklist Item 6).

required). See id. ¶¶ 153-159; Chapman Aff. ¶ 90; see also UNE Remand Order ¶ 313. The BOC applicants provide CLECs with the necessary cross-connects for local switching. See, e.g., Deere IL Aff. ¶ 165.

Customized Routing. When a CLEC is using Unbundled Local Switching or Unbundled Local Switching with shared transport and its end user makes a call to Operator Services ("OS") or Directory Assistance ("DA"), it is the BOC applicant's end-office switch that must recognize and route the call for the end user based on the CLEC's routing instructions. See id. ¶ 148. The CLEC may choose one of two routes for its end user's OS/DA calls: First, it may choose to have the end-office switch route that OS or DA call in the exact manner as an OS or DA call made by a BOC's end user – that is, to follow the BOC's normal standard routing tables – in which case the OS or DA call would route over the BOC's dedicated trunks to its OS/DA platform. Alternatively, the CLEC may choose to specify the dedicated trunk group to which it wants that OS or DA call to route, in which case the CLEC would generally point to a trunk group destined for its own OS/DA provider. See id.

If a carrier wishes to use a different form of custom routing – e.g., to aggregate its OS/DA traffic to a tandem switch within the LATA from which it would pick up the OS/DA traffic for transport to its OS/DA provider's platform – it may determine the technical feasibility and costs of such a design by submitting a BFR. See id. ¶ 146.

G. Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services

The BOC applicants satisfy the requirements of Checklist Item 7, 47 U.S.C. § 271(c)(2)(B)(vii), by making emergency services (E911 and 911), OS, and DA available to CLECs on a nondiscriminatory basis. See Valentine Aff. ¶¶ 8-44 (App. A, Tab 39); Nations Aff. ¶¶ 4-15 (App. A, Tab 34). The ICC, the PUCO, and the PSCW all expressly found the BOC

applicants to have satisfied the requirements of Checklist Item 7. See ICC Final Order ¶ 2107; PUCO Final Report and Evaluation at 201; PSCW Phase I Final Order at 213-14.

E911 and 911. E911 and 911 services allow telephone subscribers quick access to emergency assistance. The BOC applicants provide CLECs access to these services through interconnection agreements and, where applicable, tariffs. See Valentine Aff. ¶ 5.

The applicant telephone companies have implemented comprehensive procedures and systems for receiving, validating, updating, and processing rejected 911 customer records. See id. ¶¶ 22-39. A CLEC's UNE-P and resale services are handled in the same manner – i.e., the BOC performs the E911 database updates as part of the service order process. See id. ¶ 26. CLECs that use their own switching to provide service over stand-alone UNE loops update their own end-users' E911 database records. See id. CLECs that deploy stand-alone switch ports and line-splitting arrangements must issue LSRs to initiate the service order process in order to update their end-users' records with respect to end-user service address information. See id. & n.14. In such circumstances, the CLEC controls the relationship between the loop and port through the connection to its splitter within its collocation arrangement. If re-arrangements occur within the collocation arrangement, only the CLEC would know that the E911 database would need to be updated with a new end-user address. See id.

The BOC applicant employees who specifically support 911 services and employees of the 911 Database Services Provider (Intrado) perform detection and correction of CLEC end-user data errors in the 911 computer system. See id. ¶ 28. The BOC applicants are responsible for error retrieval and error correction for the end-user records of resale and UNE-P customers, as well as customers serviced by providers utilizing stand-alone switch ports. See id.

The BOC applicants provide several different functions in connection with routing of CLEC end-user 911 calls. They switch the E911 calls through the Control Office to the appropriate Public Safety Answering Point ("PSAP") as delineated by the Master Street Address Guide produced by the county and maintained by the BOC applicants. See id. ¶ 18. The applicant telephone companies transport the E911 call from the Selective Routing Control Office ("SR") to the PSAP; the CLEC is responsible for transporting the E911 call from each point of interconnection to the SR. See id. ¶ 18. And the BOC forwards the telephone number, if forwarded by the CLEC, along with the associated name and address, to the PSAP for display. See id. The applicant telephone companies provide and maintain all equipment necessary for these services. See id. ¶¶ 19-21.

Illinois Bell has installed approximately 3,600 E911 trunks in Illinois to serve CLECs. See Heritage IL Aff., Attach. A.[167] Because the BOC applicants do not have access to calling and blockage data on CLEC-originating trunks, however, switch-based CLECs must determine the number of dedicated E911 trunks they require and place timely orders for new trunks. See Valentine Aff. ¶ 19.

Directory Assistance/Operator Services. CLECs electing to use one of the BOC applicants as their wholesale provider of OS/DA services are given access to the same OS/DA services that the BOC applicants provide to their retail customers. See Nations Aff. ¶ 5. The applicant telephone companies provide switch-based CLECs with access to OS/DA services via dedicated trunk interconnections. For CLECs providing local service via resale or UNE-P,

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[167] Indiana Bell has installed approximately 300 E911 trunks, see Heritage IN Aff., Attach. A; Ohio Bell has installed approximately 400 E911 trunks, see Heritage OH Aff., Attach. A; and Wisconsin Bell has installed approximately 200 E911 trunks, see Heritage WI Aff., Attach. A.

OS/DA calls are routed from the BOCs' end-office switches to the BOCs' operator platforms over the same trunks and in the same time frame that the BOCs use to route calls from their own retail subscribers. See id. ¶ 6.

Pursuant to the terms of their interconnection agreements, CLECs can obtain OS/DA Call Branding whenever their subscribers use the BOCs' OS/DA services. See id. ¶ 9. The BOCs' OS/DA services are available to facilities-based carriers (including both UNE-P and switch-based local exchange providers) at approved rates. See id. ¶ 14.[168] Where CLECs opt to have the BOCs provide OS/DA services, the CLECs' end users obtain OS/DA through the same dialing arrangements used by the BOCs' own end users. See id. ¶ 7; 47 C.F.R. § 51.217.

Alternatively, CLECs may elect to have their subscribers' calls routed from the BOC applicants' end office switches to their own operator platforms or to those of a third-party OS/DA provider. See Nations Aff. ¶ 11. When a CLEC purchases unbundled local switching (with or without shared transport) and elects to route OS/DA to its customers through its own OS/DA platforms, the BOC applicants use a customized routing method based upon Advanced Intelligent Network technology or Line Class Code technology, depending on the CLEC's particular customer serving arrangement. See, e.g., Deere IL Aff. ¶¶ 144-145. CLECs may obtain the BOCs' directory assistance listing information in bulk downloads (with daily updates) in readily accessible magnetic tape format or through electronic transmission via the Network Data Mover. See Nations Aff. ¶ 12. The BOC applicants provide the same listing information to requesting CLECs that the BOCs' operators use for the provision of DA service to their retail

[168] Both the ICC and the IURC required Illinois Bell and Indiana Bell, respectively, to tariff OS and DA as UNEs. See Nations Aff. ¶ 14. OS/DA services are available in both Ohio and Wisconsin through SBC's 13-State Generic Interconnection Agreement. See id.

customers and to the subscribers of its wholesale customers. See id. The applicant telephone companies also provide CLECs with direct access to the DA database via physical interconnection, on a query-by-query basis. See id. ¶ 13.

Finally, the BOC applicants generally answer CLECs' subscribers' OS and DA calls on the same basis and in the same time frame as they do for their own subscribers' calls. See, e.g., Ehr IL Aff. ¶ 149 & Attach. I (PMs 80-01 and 82-01).[169]

H. Checklist Item 8: White Pages Directory Listings

As required by 47 U.S.C. § 271(c)(2)(B)(viii), the directory listings of CLEC subscribers appear in the White Pages directories in the same manner as the listings of the BOC applicants' retail subscribers. The directory listings of Illinois, Indiana, Ohio, and Wisconsin CLEC subscribers appear in the White Pages directories in the same manner as the listings of BOC applicant retail subscribers. See Kniffen-Rusu Aff. ¶ 4 (App. A, Tab 30). CLECs may order new directory listings, or request changes to existing directory listings, via a local service request or a directory service request. See Cottrell/Lawson Joint Aff. ¶¶ 106-108. Service orders for directory listing requests update the White Pages listing database, which is maintained by SBC Directory Operations. See Kniffen-Rusu Aff. ¶ 4. Switch-based CLECs have the ability to access through SBC's EDI and LEX ordering interfaces the same directory listings ordering functionality that previously was available only through a separate interface provided by AAS. See Cottrell/Lawson Joint Aff. ¶ 106 n.47. Published listings for CLEC subscribers are fully integrated and interspersed alphabetically with the BOC applicants' subscriber listings. See Kniffen-Rusu Aff. ¶ 4.

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[169] See also Ehr IN Aff. ¶ 130; Ehr OH Aff. ¶ 135; Ehr WI Aff. ¶ 131.

CLECs may request a White Pages pre-publication verification review report, which provides them with information on their listings scheduled for inclusion in that directory. See id. ¶ 9. This report is provided at no charge. See id. ¶ 10 n.10. Any request must be received no later than 60 days prior to the directory close date for a given directory. This report is typically provided 45 days prior to the directory close date, in a PDF format by Directory name. This report provides CLECs with the opportunity for a pre-publication review of the content of their subscribers' listings and an opportunity to make corrections before the directory is actually printed. See id. ¶ 9. A CLEC may request a second pre-publication verification report, which will be provided 15 calendar days in advance of the directory close date. See id. ¶ 10. All changes to directory listings scheduled for inclusion in a particular directory must be provided no later than the directory close date for that directory. See id.[170]

I. Checklist Item 9: Nondiscriminatory Access to Telephone Numbers

Checklist Item 9 requires a BOC to demonstrate that it complies with telecommunications numbering administration guidelines, plan, or rules that this Commission has established. See 47 U.S.C. § 271(c)(2)(B)(ix). In November 1999, Lockheed Martin transferred to NeuStar Inc. all Central Office Code Administration responsibilities. See E. Smith Aff. ¶ 9 & n.2 (App. A, Tab 37). Since completion of this transition of authority, the BOC applicants have satisfied the requirements of the Act by complying with the current number administration rules, regulations, and guidelines established by the various regulatory agencies and the industry numbering forums. They comply with those rules, regulations, and guidelines on the same basis as all other service providers. See id. ¶ 9. No CLEC has raised any issues with respect to any of the BOC

[170] See Easton Agreement, App. WP § 2.6.2.

applicants' compliance with this checklist item, see ICC Final Order ¶ 2185 ("[t]here being no dispute or showing to the contrary, it is reasonable for this Commission to find that [Illinois Bell] is in compliance with Checklist Item 9"); PUCO Final Report and Evaluation at 210 ("[t]here is no dispute that SBC Ohio satisfies this checklist item"); PSCW Phase I Final Order at 223 ("[N]o party challenges SBC Wisconsin's assertion by claiming that SBC Wisconsin did not provide non-discriminatory access to telephone numbers.").

J. Checklist Item 10: Nondiscriminatory Access to Databases and Associated Signaling Necessary for Call Routing and Completion

The BOC applicants offer CLECs the same access to signaling and call-related databases as they have, allowing calls to or from CLEC customers to be set up and routed on a nondiscriminatory basis. See Deere IL Aff. ¶¶ 170-210.[171] The BOC applicants accordingly satisfy the checklist's requirements for affording nondiscriminatory access to these components of their networks. See 47 U.S.C. § 271(c)(2)(B)(x); 47 C.F.R. § 51.319(e); Texas Order ¶¶ 362-368.

Signaling Networks. When a CLEC purchases unbundled local switching from the BOC applicant, it obtains the same access to the signaling network as the BOC provides itself. See, e.g., Deere IL Aff. ¶ 175. CLECs can use this unbundled access to furnish Signaling System 7 ("SS7")-based services for their own end-user customers' calls or the calls of end-user customers of other carriers. See id. ¶ 174. SS7 signaling is available between CLEC switches, between CLEC switches and the BOC's switches, or between CLEC switches and the networks of other carriers connected to the SS7 network. See id.

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[171] See also Deere IN Aff. ¶¶ 170-210; Deere OH Aff. ¶¶ 175-215; Deere WI Aff. ¶¶ 170-210.

Call-Related Databases. The BOC applicants offer CLECs nondiscriminatory access to a variety of call-related databases. Specifically, they provide access to their Line Information Database ("LIDB"), CNAM database, toll-free databases, and its Advanced Intelligent Network. See id. ¶¶ 181-202. The applicant telephone companies likewise provide CLECs with nondiscriminatory access to their local-number portability database, see E. Smith Aff. ¶¶ 10-17, and its Operator Services Marketing Order Processor, which is used to create, modify, and update information in LIDB and CNAM, see, e.g., Deere IL Aff. ¶¶ 203-210; 47 C.F.R. § 51.319(e)(3).

The ICC found that Illinois Bell satisfies this checklist item, see ICC Final Order ¶ 2304; see also PUCO Final Report and Evaluation at 219 ("[b]ased on the record in this proceeding, the PUCO recommends that the FCC find that SBC Ohio has satisfied the requirements of Checklist Item 10"); PSCW Phase I Final Order at 232 (finding that Wisconsin Bell complies with this checklist item).[172]

K. Checklist Item 11: Number Portability

Under this checklist item, a BOC must demonstrate that it is in full compliance with such regulations that this Commission issues requiring "number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements." 47 U.S.C. § 271(c)(2)(B)(xi); California Order ¶ 104. Number portability enables customers of facilities-based CLECs to retain their

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[172] The PSCW made its conclusion with respect to this checklist item "[s]ubject to the outcome in Phase II." PSCW Phase I Final Order at 232. Although it did not specifically address Checklist Item 10 in its Phase II order, it did "ultimately conclude that SBC Wisconsin complies with the 14-point checklist requirements as set forth in § 271." PSCW Phase II Final Order at 3.

existing telephone number even after they no longer subscribe to the BOC applicant's service. See E. Smith Aff. ¶ 10.

Whether ported with unbundled local loops or on a stand-alone basis, these numbers have been ported in a timely and efficient manner, without unreasonable service disruptions. Indeed, in Illinois, the average time out of service for a CLEC LNP conversion has never reached the 60-minute threshold in the past three months. See Ehr IL Aff. ¶ 155 & Attach. K (PM 100-01). And LNP conversions have averaged less than two minutes out of service during the last three months. See id. Illinois Bell has also met the 96.5-percent benchmark for percent out of service for less than 60 minutes for the last three months. See id. (PM 101-01); see also supra Part III.D.2.d (discussing hot-cut performance generally).[173]

As the Affidavit of Eric Smith describes, the BOC applicants have timely implemented LNP using the Location Routing Number method "preferred" by the Commission. See Second Report and Order, Telephone Number Portability, 12 FCC Rcd 12281, ¶ 9 (1997); E. Smith Aff. ¶¶ 12-13. By October 30, 1999, all of the BOC applicants had equipped their switches with LNP capabilities. See E. Smith Aff. ¶ 12.

To minimize disruptions of service while numbers are being ported, the BOC applicants use an unconditional 10-digit trigger ("UCT") process. See id. ¶ 14. UCT is activated on the customer's number prior to the due date of the initial porting order, where technically feasible. When the CLEC activates its switch port, calls to the customer's telephone number are routed

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[173] The same has also been true in Indiana, see Ehr IN Aff. ¶ 135, and in Wisconsin, see Ehr WI Aff. ¶ 138. In Ohio, LNP conversions have averaged only 8.03 minutes out of service during the last three months, and Ohio Bell has met the 96.5 percent benchmark for percent of LNP conversions out of service for less than 60 minutes in two of the last three months, averaging 95.39 percent during the March through May study period. See Ehr OH Aff. ¶ 140.

automatically to the CLEC's switch. If the telephone number has not been activated, the call is completed on the BOC's switch. Thus, the UCT feature eliminates the need for coordinating the disconnect order from the BOC's switch with activation of the number in the CLEC's switch. This makes it unnecessary for the BOC applicant and the CLEC to coordinate LNP cutovers on a minute-to-minute basis. See id.

CLECs may order stand-alone LNP on a CHC or FDT basis. See id. ¶ 15. Although it is the CLEC's responsibility to make certain the necessary translations for the conversion are ready in its switch prior to the due date, the BOC applicants nonetheless have made procedures available for CLECs to delay and/or cancel LNP conversions on the due date. See id. The BOC applicants' LNP charges are set out in the FCC tariff, and these charges have been found to be both reasonable and lawful. See id. ¶ 16 & n.12.

The ICC found Illinois Bell had satisfied the requirements of Checklist Item 11, see ICC Final Order ¶ 2324; see also PUCO Final Report and Evaluation at 222 (recommending that this Commission find that Ohio Bell has satisfied this checklist item); PSCW Phase I Final Order at 237.[174]

L. Checklist Item 12: Local Dialing Parity

Checklist Item 12 requires the BOC to provide nondiscriminatory access to such services or information as are necessary to allow CLECs to implement local dialing parity under section 251(b)(3). See 47 U.S.C. § 271(c)(2)(B)(xii). Local dialing parity ensures that CLECs'

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[174] The PSCW made its conclusion with respect to this checklist item "subject to the outcome of Phase II." PSCW Phase I Final Order at 237. Although it did not specifically address Checklist Item 11 in its Phase II order, it did "ultimately conclude that SBC Wisconsin complies with the 14-point checklist requirements as set forth in § 271." PSCW Phase II Final Order at 3.

customers are able to place calls within a given local calling area by dialing the same number of digits as one of SBC's end users. The Commission anticipated "that local dialing parity [would] be achieved upon implementation of the number portability and interconnection requirements of section 251."[175] Each of the BOC applicants has implemented number portability and the other related requirements of section 251, and CLEC customers can make local calls dialing the same number of digits as the BOC applicants' retail customers can. See Deere IL Aff. ¶ 214. The ICC found Illinois Bell in full compliance with Checklist Item 12. See ICC Final Order ¶ 2347.[176]

M. Checklist Item 13: Reciprocal Compensation

Consistent with sections 271(c)(2)(B)(xiii) and 252(d)(2), the BOC applicants facilitate the exchange of traffic with CLECs by having entered into just and reasonable reciprocal compensation arrangements for transport and termination of local traffic on the other carrier's network. Pursuant to these arrangements, Illinois Bell and Illinois CLECs, for example, exchanged approximately 2.1 billion minutes of local traffic in April 2003 alone. See Heritage IL Aff., Attach. A.[177] The BOC applicants have each implemented processes accurately to

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[175] Second Report and Order and Memorandum Opinion and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 19392, ¶ 68 (1996).

[176] See also Deere IN Aff. ¶ 214; Deere OH Aff. ¶ 219; PUCO Final Report and Evaluation at 223; Deere WI Aff. ¶ 214; PSCW Phase I Final Order at 239.

[177] Indiana Bell and Indiana CLECs exchanged approximately 822 million minutes in the same month, see Heritage IN Aff., Attach. A; Ohio Bell and Ohio CLECs exchanged approximately 1.5 billion minutes in the same month, see Heritage OH Aff., Attach. A; and Wisconsin Bell and Wisconsin CLECs exchanged approximately 659 million minutes in the same month, see Heritage WI Aff., Attach. A

account for such traffic and compensation, and they have entered into agreements that provide for the parties to be compensated at lawful rates. See Alexander IL Aff. ¶¶ 98-99.[178]

Pursuant to the ISP Reciprocal Compensation Order,[179] each of the BOC applicants had the option to choose whether to invoke the rate caps set forth by the Commission in that order. Each of the BOC applicants has issued an accessible letter, offering carriers in its state the contractual option of exchanging ISP-bound and Section 251(b)(5) traffic in accordance with the rates, terms, and conditions of the Commission's ISP Reciprocal Compensation Order on or after June 1, 2003. This offer was made in accordance with paragraph 89 of the ISP Reciprocal Compensation Order, which set forth the so-called "mirroring" rule. In addition, the BOC applicants are providing direct notice to all carriers with existing interconnection agreements regarding its invocation of the rates, terms, and conditions of the Commission's ISP Reciprocal Compensation Order with respect to ISP-bound traffic.[180]

The ICC has concluded, "on the basis of the relevant evidence, and there being no 'factual' dispute to resolve," that Illinois Bell has complied with requirements of Checklist Item 13. See ICC Final Order ¶ 2525. Similarly, the PUCO recommends that this Commission find that Ohio Bell has demonstrated compliance with this checklist item. See PUCO Final Report

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[178] See also Alexander IN Aff. ¶¶ 97-98; Alexander OH Aff. ¶¶ 97-98; Alexander WI Aff. ¶¶ 97-98.

[179] Order on Remand and Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, 16 FCC Rcd 9151 (2001), remanded, WorldCom, Inc. v. FCC, 288 F.3d 429 (D.C. Cir. 2002), cert. denied, 123 S. Ct. 1927 (2003).

[180] See Alexander IL Aff. ¶ 100; Alexander IN Aff. ¶ 99; Alexander OH Aff. ¶ 99; Alexander WI Aff. ¶ 99.

and Recommendation at 227. The PSCW has reached the same conclusion. See PSCW Phase I Final Order at 246.

N. Checklist Item 14: Resale

In Illinois, 40 CLECs are reselling approximately 97,000 lines. See Heritage IL Aff., Attach. A. In Indiana, 45 CLECs are reselling approximately 21,000 lines. See Heritage IN Aff., Attach. A. In Ohio, 30 CLECs are reselling approximately 21,000 lines. See Heritage OH Aff., Attach. A. In Wisconsin, 25 CLECs are reselling approximately 27,000 lines. See Heritage WI Aff., Attach. A.

The ICC approved a methodology for calculating Illinois Bell's wholesale rates that requires the application of a specific discount for a specific rate element; in other words, the percentage discount varies by rate element. See Wardin Aff. ¶ 61. The wholesale price for a rate element must be recalculated each time the corresponding retail price changes. The current calculated discounts are listed in each applicable interconnection agreement Resale Appendix Pricing Schedule and in Illinois Bell's tariff. See id. According to the ICC, Illinois Bell has met its burden with respect to this checklist item. See ICC Final Order ¶ 2562.

The IURC established two discounts – one for when the reseller purchases OS and DA, which is 21.46 percent, and a second for when the reseller does not purchase these services, which is 22.13 percent. See Butler Aff. ¶ 107. These avoided cost discounts are generally applied to resold telecommunications services.

Like the IURC, the PUCO also established two wholesale discounts – 20.29 percent, for resellers that purchase OS and DA, and 21.45 percent, for resellers that do not. See McKenzie Aff. ¶ 105; see also PUCO Final Report and Evaluation at 228. The PUCO found Ohio Bell to

have demonstrated compliance with this checklist item. PUCO Final Report and Evaluation at 233.

The PSCW approved the wholesale discounts that Wisconsin Bell had included in its statement of generally available terms. See VanderSanden Aff. ¶ 99. The wholesale discounts vary by "family," and they also vary depending on whether the retail services are business or residential. See id. ¶ 100. The PSCW found Wisconsin Bell to have satisfied Checklist Item 14. PSCW Phase I Final Order at 251.

Each of the BOC applicants makes available for resale the same telecommunications services that it furnishes its own retail customers. See Alexander IL Aff. ¶ 106.[181] CLECs are able to sell these services to the same customer groups and in the same manner as the BOC. See id. Each BOC applicant offers wholesale discounts on promotional offerings lasting 91 days or more. Id. ¶ 109. The BOC applicants' existing retail customer contracts are also available for resale without restriction beyond those restrictions applicable to their retail service arrangements (e.g., no cross-class selling) that have been found to be reasonable and nondiscriminatory. See id. ¶ 112. CLECs can assume the BOCs' existing retail customer contracts without triggering termination liabilities or transferal fees to the end user. See id.; Kansas/Oklahoma Order ¶ 253; New York Order ¶ 390; Second Louisiana Order ¶ 313.

The performance results clearly demonstrate that the BOC applicants provide CLECs nondiscriminatory provisioning of its resale telecommunications services. Illinois Bell met or exceeded the performance standard for 86.4 percent of the pertinent submeasures in at least two of the last three months. See Ehr IL Aff. ¶ 161 & Attach. L. Indiana Bell met or exceeded the

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[181] See also Alexander IN Aff. ¶ 105; Alexander OH Aff. ¶ 105; Alexander WI Aff. ¶ 105.

performance standard for 98 percent of the pertinent submeasures in at least two of the last three months. See Ehr IN Aff. ¶ 142 & Attach. L. Ohio Bell met or exceeded the performance standard for 93.9 percent of the pertinent submeasures in at least two of the last three months. See Ehr OH Aff. ¶ 146 & Attach. L. Wisconsin Bell met or exceeded the performance standard for 95.5 percent of the pertinent submeasures in at least two of the last three months. See Ehr WI Aff. ¶ 143 & Attach. L.

Just as in the SWBT and Pacific regions, SBC does not generally offer a DSL telecommunications service at retail in Illinois, Indiana, Ohio, or Wisconsin, see Habeeb Aff. ¶ 19, so it is not required to offer such a service at a resale discount pursuant to section 251(c)(4). This Commission has concluded that the section 271 process is not the appropriate proceeding in which to address the "far-reaching implications for a wide range of issues" relating to the regulatory treatment of high-speed Internet access services, California Order ¶ 113, and the Commission has initiated a proceeding in which it intends to address these issues.[182]

With respect to those advanced telecommunications services that SBC does provide at retail – including Frame Relay, ATM Cell Relay, customer service contracts, and R-LAN DSL Transport – AADS makes all of them available for resale at the appropriate wholesale discount. See Habeeb Aff. ¶ 28; IG2 Agreement § 11.F (e.g., App. B-IL, Tab 11).

IV. SBC'S ENTRY INTO THE INTERLATA SERVICES MARKETS WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST

Section 271 requires this Commission to determine whether interLATA entry "is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C).

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[182] See Notice of Proposed Rulemaking, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, 16 FCC Rcd 22781 (2001).

SBC's provision of interLATA services originating in Illinois, Indiana, Ohio, and Wisconsin satisfies this requirement. As this Commission has previously recognized, "compliance with the competitive checklist is itself a strong indicator that long distance entry is consistent with the public interest. This approach reflects the Commission's years of experience with the consumer benefits that flow from competition in telecommunications markets." Kansas/Oklahoma Order ¶ 266. The Commission has recognized that "BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist." Georgia/Louisiana Order ¶ 281.[183]

As has occurred in every other state where section 271 relief has been granted, SBC's long-distance entry in the applicant states will stimulate both long-distance and local competition. Indeed, the consistent evidence of consumer savings where section 271 relief has been granted indicates that consumers in Illinois, Indiana, Ohio, and Wisconsin will likely save hundreds of millions of dollars. According to an empirical study that examined the experience of consumers in the long-distance telecommunications markets in New York and Texas, the

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[183] Although this Commission has determined that its responsibility under the public-interest standard is broader than an assessment whether BOC entry would enhance competition in the long-distance market, see, e.g., Michigan Order ¶ 386, that position has never been reviewed on appeal and is, frankly, inconsistent with the plain text of the statute. The question under the statute is whether "the requested authorization is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C) (emphasis added). The "requested authorization" is obviously for permission to enter the long-distance market. This reading also finds strong support in section 271(c)(2)(B), which sets forth the competitive checklist, and section 271(d)(4), which states that "[t]he Commission may not . . . extend the terms used in the competitive checklist." It is implausible that Congress would have established the checklist and prevented the Commission from expanding upon it while nevertheless authorizing the Commission to add further local competition-related requirements in the context of its public-interest review. While SBC certainly believes that it has satisfied the Commission's broader understanding of its public-interest authority under section 271, it does not waive its objections to the Commission's expansive reading of its public-interest authority.

average consumer received a savings of eight to 11 percent on the monthly interLATA bill in states where BOC entry occurred as compared to those states where BOC entry had not yet occurred. In addition, the authors of the study found statistically significant evidence that CLECs have a substantially higher cumulative share of the local exchange market in states where BOC entry has occurred.[184] Another study concluded that "[b]enefits likely to accrue to consumers from local carriers providing in-region, long-distance service range from approximately $500 million to $720 million per year for a representative state, $1.9 to $2.7 billion for an example of an operating company regional service area, and $2.8 to $8.9 billion nationwide."[185]

A. Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market

Section 271 approval vastly accelerates both long-distance and local competition. Chairman Powell has recognized "a correlation between the process for approving applications

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[184] Jerry A. Hausman et al., Does Bell Company Entry into Long-Distance Telecommunications Benefit Consumers?, 70 Antitrust L.J. 463, 464 (2002) ("Does BOC Entry Benefit Consumers?"); see also Jerry A. Hausman et al., The Consumer-Welfare Benefits from Bell Company Entry into Long-Distance Telecommunications: Empirical Evidence from New York and Texas 3 (Jan. 9, 2002), at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=289851; see also Paul W. MacAvoy & Michael A. Williams, Deregulation of Entry in Long-Distance Telecommunications 77 (2002) ("Based on our finding that long-distance price-cost margins are not now competitive, we expect substantial consumer gains from entry of local exchange companies into long-distance service markets").

[185] MacAvoy & Williams, supra note 184, at 77; id. at 78 ("Such results are likely because of the unique position of the operating company on entering the interexchange market. This carrier will have facilities in place to deliver long-distance services between local calling areas because it provides that service within all local calling areas. . . . In addition, and as important, the operating company has for decades provided local service to potential long-distance customers, so that the company brand name is familiar and, in some cases, as highly regarded as those of the long-distance carriers.").

and growing robustness in the markets."[186] There is every reason to believe that this correlation will continue in Illinois, Indiana, Ohio, and Wisconsin.[187]

SBC's entry into long-distance markets in the applicant states, like that of the other BOCs, is particularly pro-competitive because it will give consumers an attractive alternative single source (and bill) for local and long-distance services, placing significant pressure on the competition to provide lower prices, enhanced services, and greater quality. As should be expected, SBC's entry into the long-distance market in Illinois, Indiana, Ohio, and Wisconsin will stimulate substantial savings for consumers. As a recent study by MIT Professor Jerry A. Hausman concludes, in the first year after a BOC enters the long-distance market, consumers in that state experience long-distance savings of at least ten to 20 percent.[188]

With simpler long-distance rates and the convenience of one all-inclusive telephone bill, the 271-approved BOCs have attracted an unexpectedly high number of customers. After only six months in Texas, SBC had 1.7 million long-distance lines; after only nine months, that

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[186] See Rodney L. Pringle, Powell Says Innovation Will Drive Telecom Upswing, Communications Today, June 6, 2001 (internal quotation marks omitted).

[187] See Does BOC Entry Benefit Consumers?, supra note 184, at 482 (The results from New York and Texas "provide useful information for regulators who will examine the issue of whether the BOCs should receive Section 271 approvals in other states. The results suggest that consumers will benefit from lower long-distance bills following BOC entry."). Consumers in New York alone have saved up to $700 million a year as a result of greater competition. See Telecommunications Research & Action Center, 15 Months After 271 Relief: A Study of Telephone Competition in New York 8-9 (Apr. 25, 2001) ("15 Months After 271 Relief in New York") ("An average consumer that switched to Verizon for long-distance service will save between $3.67 and $13.94 a month . . . . [P]hone competition has brought up to $700 million of savings to New York consumers.").

[188] See Jerry A. Hausman, Effect of BOC Entry into InterLATA and IntraLATA Service in New York and Texas, at http://www.iacompetition.org/html/full_hausman.html (visited July 16, 2003); see also Does BOC Entry Benefit Consumers?, supra note 184.

number had grown to 2.1 million lines.[189] Thirty-three months after entry in Texas, twenty-five months after entry in Oklahoma and Kansas, sixteen months after entry in Arkansas and Missouri, and only four months after entry into California, SBC had a total of 7.6 million long-distance lines in service in those states.[190] In fact, only four months after long-distance entry, SBC reached 13-percent retail-line penetration in California.[191]

BOCs, however, have not been alone in alluring long-distance customers. In fact, BOC entry into the long-distance market has repeatedly compelled incumbent long-distance carriers to initiate special, lower-priced service offerings for customers. In Kansas and Oklahoma, AT&T responded to SBC's entry by providing 30 free minutes of long-distance calling to its customers in those states.[192] AT&T has since made the same offer to its customers in Massachusetts, Pennsylvania, Missouri, Arkansas, Georgia, Louisiana, Rhode Island, Vermont, Maine, New Jersey, Alabama, Kentucky, Mississippi, North Carolina, South Carolina, New Hampshire, Delaware, Virginia, Florida, Tennessee, California, Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, Wyoming, Florida, Tennessee, Maryland, Washington, D.C.,

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[189] See Michael J. Balhoff et al., Legg Mason – Equity Research, Section 271 Relief: Bells Race IXCs/Each Other for New Markets/Revenues, Table 4 (June 24, 2001).

[190] See SBC Communications Inc., Investor Briefing 7 (Apr. 24, 2003) ("SBC Apr. 24, 2003 Investor Briefing"), at http://www.sbc.com/Investor/Financial/Earning_Info/docs/1Q_03_IB_FINAL.pdf. Only twenty-four months after entry in Texas, 16 months after entry in Oklahoma and Kansas, and seven months after entry in Arkansas and Missouri, SBC had a total of 5.6 million long-distance lines in service. See SBC Communications Inc., Investor Briefing 6 (Aug. 13, 2002), at http://www.sbc.com/Investor/Financial/Earning_Info/docs/4Q_02_IB_FINAL.pdf.

[191] See SBC Apr. 24, 2003 Investor Briefing 7.

[192] See AT&T Press Release, AT&T Long Distance Customers in Kansas Get the Message: Thanks for Your Loyalty (Mar. 5, 2001); see also AT&T Press Release, AT&T Long Distance Customers in Oklahoma Get the Message: Thanks for Your Loyalty (Mar. 5, 2001).

West Virginia, Nevada, and Minnesota shortly before the Commission authorized the BOC's long-distance entry in those states.[193]

BOC entry into long-distance markets has invigorated competition in local markets as well. As it has repeatedly done in other states, in anticipation of SBC's application to provide

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[193] See AT&T Press Release, Bay State AT&T Long Distance Customers Get the Message: Thanks for Your Loyalty (May 14, 2001); AT&T Press Release, AT&T to Keystone State Long Distance Customers: Thanks for Your Loyalty (Aug. 14, 2001); AT&T Press Release, AT&T to Missouri Customers: Show Me the Minutes (Oct. 22, 2001); AT&T Press Release, AT&T Long Distance Customers in Arkansas Get the Message: Thanks for Your Loyalty (Oct. 22, 2001); AT&T Press Release, AT&T Long Distance Customers in Georgia Get the Message: Georgia's on Our Mind (Dec. 5, 2001); AT&T Press Release, AT&T Long Distance Customers in Louisiana Get the Message: Thanks for Your Loyalty (Dec. 5, 2001); AT&T Press Release, AT&T Long Distance Customers in the Ocean State Get the Message: Thanks for Your Loyalty (Feb. 19, 2002); AT&T Press Release, AT&T Long Distance Customers in the Green Mountain State Get the Message: Thanks for Your Loyalty (Apr. 15, 2002); AT&T Press Release, AT&T Long Distance Customers in the Pine Tree State Get the Message: Thanks for Your Loyalty (June 18, 2002); AT&T Press Release, AT&T Long Distance Customers in the Garden State Get the Message: Thanks for Your Loyalty (June 3, 2002); AT&T Press Release, AT&T Long Distance Customers in Five Southern States Get the Message: Thanks for Your Loyalty (Sept. 18, 2002); AT&T Press Release, AT&T Long Distance Customers in the Granite State Get the Message: Thanks for Your Loyalty (Sept. 25, 2002); AT&T Press Release, AT&T Long Distance Customers in the Diamond State Get the Message: Thanks for Your Loyalty (Sept. 25, 2002); AT&T Press Release, AT&T Long Distance Customers in the Cavalier State Get The Message: Thanks for Your Loyalty (Oct. 30, 2002); AT&T Press Release, AT&T Long Distance Customers in Florida Get the Message: Thanks for Your Loyalty (Dec. 11, 2002); AT&T Press Release, AT&T Long Distance Customers in Tennessee Get the Message: Thanks for Your Loyalty (Dec. 11, 2002); AT&T Press Release, AT&T Long Distance Customers in the Golden State Get the Message: Thanks for Your Loyalty (July 30, 2002); AT&T Press Release, AT&T Long Distance Customers in Twelve States Get the Message: Thanks for Your Loyalty (Dec. 2, 2002); AT&T Press Release, AT&T Long Distance Customers in Maryland and Washington, D.C., Get the Message: Thanks for Your Loyalty (Mar. 19, 2003); AT&T Press Release, AT&T Long Distance Customers in West Virginia Get the Message: Thanks for Your Loyalty (Mar. 19, 2003); AT&T Press Release, AT&T Long Distance Customers in Michigan Get the Message: Thanks for Your Loyalty (Apr. 15, 2003); AT&T Press Release, AT&T Long Distance Customers in Nevada Get the Message: Thanks for Your Loyalty (Apr. 15, 2003); AT&T Press Release, AT&T Long Distance Customers in Minnesota Get the Message: Thanks for Your Loyalty (June 26, 2003).

long-distance services in California, AT&T initiated residential local service in that state.[194] In a similar move, AT&T recently entered the local residential market in Indiana, and re-entered the local residential market in Illinois.[195] Within the past week, AT&T announced that it had entered the Wisconsin market.[196] AT&T also launched a package of unlimited local and long-distance calling in Illinois, Indiana, and Ohio.[197] Meanwhile, WorldCom recently announced the availability of its "The Neighborhood" plan in Illinois, Indiana, Ohio and Wisconsin.[198] The fact that the nation's two largest long-distance companies already compete widely for both residential and business customers across SBC-Midwest's region demonstrates that section 271 relief (and the imminence of such relief) spurs competition.

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[194] See AT&T Press Release, AT&T Enters Indiana Residential Local Phone Market (Jan. 27, 2003); see also AT&T Press Release, AT&T Enters California Residential Local Phone Market (Aug. 6, 2002).

[195] See AT&T Press Release, AT&T Resumes Marketing Residential Local Phone Service in Illinois (June 17, 2003).

[196] See AT&T Press Release, AT&T Enters Wisconsin Residential Local Phone Market (July 10, 2003); see also Jason Gertzen, AT&T Enters State Market with $50 Flat Fee for All Calls; New Package Expected to Drive Prices Lower in Competition with SBC, MCI, Milwaukee Journal Sentinel (July 11, 2003).

[197] See AT&T Press Release, Illinois Residents Among First to be Offered Unlimited Local and Long Distance Calling by AT&T (Apr. 28, 2003); see also AT&T Press Release, Indiana Residents Among First to be Offered Unlimited Local and Long Distance Calling by AT&T (May 19, 2003); AT&T Press Release, Ohio Residents Among First to be Offered Unlimited Local and Long Distance Calling by AT&T (Apr. 28, 2003).

[198] See Mark Watson, MCI Offers Flat-Rate Phone Plan in 32 States; Tennessee, Mississippi Included in New Service, Commercial Appeal (Memphis, Tenn.), Apr. 16, 2002, at B7; see also Liane H. LaBarba & Toby Weber, MCI Fires Back at Bells with Local Service Play, Telephony, Apr. 22, 2002, at 16 ("Regardless of the difficulty in implementing the service, MCI has little choice . . . said Simon Reeves, analyst at Pacific Crest Securities.").

It is well-established that the long-standing commitment of many state commissions to universal service has resulted in residential rates that are, in many cases, below cost.[199] Unsurprisingly, CLECs generally have shown little appetite for competing to serve customers at such below-cost rates. Nevertheless, in states where BOCs have received 271 relief – and where the incumbent long-distance carriers have accordingly felt the need to act to preserve their long-distance revenues – competition for residential customers has increased substantially. In fact, AT&T recently boasted that its local phone service, which is offered in eleven states, including California, Georgia, Indiana, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, Texas, and Virginia, had reached three million customers.[200] "Americans clearly want a choice of local phone companies and we'd like to be able to give them that choice everywhere" noted AT&T Consumer Senior Vice President Kevin Crull, adding that AT&T intends "to extend our own facilities into the local network whenever feasible."[201] Likewise, WorldCom had already amassed 1.5 million residential local customers in several states, including New York,

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[199] See, e.g., The Telecom Act Five Years Later: Is It Promoting Competition?: Hearing Before the Subcomm. on Antitrust, Business Rights, and Competition of the Senate Comm. on the Judiciary, 107th Cong. 6 (May 2, 2001) ("It will be difficult for competitors to ever come into the Texas market, just as it will be difficult to get into the California electricity market, if you can't sell for the proper price or compete with the proper price which you just bought for ten dollars more. . . . [I]t is important to know that residential rates were purposely subsidized for 80 years.") (testimony of Pat Wood, Chairman, Texas Public Utility Commission); Public Util. Comm'n of Texas, Report to the 77th Texas Legislature: Scope of Competition in Telecommunications Markets of Texas 85 (Jan. 2001) (to the extent competition is less viable for certain rural and residential customers, that is "rooted in underlying market conditions and in the historical regulatory pricing system for local telephone service").

[200] See AT&T Press Release, AT&T Now Serves 3 Million Residential Local Service Customers (June 3, 2003).

[201] See id.

Pennsylvania, Georgia, Texas, Florida, California, and Michigan, prior to its initiation of "The Neighborhood" plan.[202]

This Commission has recognized that "states with long-distance approval show [the] greatest competitive activity" in local telecommunications.[203] According to the recent empirical study discussed earlier, "CLECs' cumulative market share increased significantly after BOC entry into interLATA service. Most of the change in CLEC share is attributable to AT&T Local and MCI Local, which have been driven by competition to offer a bundle of local and long-distance services because the BOC can now offer a similar package to residential consumers."[204]

In sum, BOC 271 entry is a catalyst for increased competition throughout the communications marketplace. There is every reason to expect these same positive and pro-competitive benefits for the consumers of Illinois, Indiana, Ohio, and Wisconsin with the granting of this Joint Application.

B. Each of the BOC Applicants Is Subject to a Comprehensive Performance Remedy Plan

The BOC applicants have each implemented a performance remedy plan that will unquestionably "foster post-entry checklist compliance." Texas Order ¶ 423.

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[202] See C.S. Robinson, U.S. Bancorp Piper Jaffray, Investext Rpt. No. 8478041, WorldCom Inc. – MCI Group – Company Report at *2 (Apr. 15, 2002).

[203] See FCC News Release, Federal Communications Commission Releases Latest Data on Local Telephone Competition (May 21, 2001).

[204] Does BOC Entry Benefit Consumers?, supra note 184, at 479; see also Bruce Roberts, Dresdner Kleinwort Wasserstein, Verizon UNE Regulation Under Review, NJ PUC to Rule on VZ LD 5 (Jan. 8, 2002) ("We also believe that IXCs are using UNE-P primarily to protect long distance revenues, so the decision to use UNE-P is based primarily on where the RBOCs have gained LD entry rather than on the profitability of providing local service itself.").

1. Illinois

On July 10, 2002, the ICC approved a performance remedy plan for Illinois Bell.[205] The approved plan, known as the "0120 Plan" significantly modified Illinois Bell's original proposal. See Johnson Aff. ¶ 39. In December 2002, the ICC directed that the "0120 Plan" would remain in effect up to and until the ICC approves a wholesale performance remedy plan for section 271 purposes.[206] The ICC approved a modified remedy plan – the so-called "Compromise Plan" – when it issued its order approving Illinois Bell's section 271 application. See ICC Final Order ¶ 3558 ("On the entirety of our review and analysis, the Commission concludes that the Compromise Plan meets with, and will serve, the public interest"). Illinois Bell issued an Accessible Letter, informing CLECs of the availability of the new remedy plan.[207] It also filed a tariff incorporating the required changes. See Johnson Aff. ¶ 39.[208]

The ICC-approved performance remedy plan satisfies the five, key characteristics that this Commission has previously identified as probative of whether the plan will ensure a BOC continues to comply with section 271 after the application is granted: (a) the total liability potentially at risk provides a meaningful and significant incentive to comply with the designated performance standards; (b) the plan contains clearly-articulated, predetermined measures and

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[205] See Order, Illinois Bell Telephone Company et al., Petition for Resolution of Disputed Issues Pursuant to Condition (30) of the SBC/Ameritech Merger Order, Docket No. 01-0120 (ICC July 10, 2002) (App. M, Tab 87).

[206] See Order, Illinois Bell Telephone Company, Application for Review of Alternative Regulation Plan, Docket Nos. 98-0252, 98-0335 & 00-0764 (Consol.) (ICC Dec. 30, 2002) (App. M, Tab 113).

[207] See Accessible Letter CLECAM03-188 (May 27, 2003) (App. I, Tab 41).

[208] See I.C.C. Tariff No. 20, Part 2, Section 11.1.D.